

Sovereignty Disputes over the Spratly Islands: Can the Disputes Be Resolved?

Shee Poon Kim

I Background

Territorial conflicts in maritime Southeast Asia abound. Invariably these maritime conflicts involve two states⁽¹⁾ whose disputes are confined to specific areas; they have no regional significance and ramifications. Disturbingly, disputes over the Spratly islands deviate from this pattern. In fact, the conflicts over the sovereignty of these islands directly involve six parties (China, Taiwan, the Philippines, Vietnam, Malaysia and Brunei) and indirectly Indonesia, Singapore, ASEAN and the extra-regional powers, the USA and in particular Japan watch any possible escalation of these conflicts with great concern, specially as China is displaying a growing assertiveness towards the Spratly islands since the 1980's.

Indeed, the territorial disputes over the Spratly islands have emerged as the most important focus of strategic consideration which could have profound regional implications in the post-cold war era and the post-Kampuchean conflicts in Southeast Asia. If unchecked, the

territorial disputes over the Spratly islands could escalate into larger regional armed conflicts in Southeast Asia which could then upset the strategic security balance, regional order and peace and stability.

Hence, this paper is an attempt to examine and analyze the underlying reasons for these conflicts, the position and arguments taken by the six disputing parties and more importantly, to critically assess the validity of their claims, especially those based on historical and legal precedents.

The South China Sea consists of four groups of islands, i.e. the Pratas, the Macclesfield Banks, the Paracels and finally the Spratlys. The first two groups are controlled by China and are not claimed nor challenged by the other claimant states. However, Vietnam claims all of the Paracels and the Spratly chains, the Philippines, Malaysia and Brunei only claim part of the Spratly islands. Indonesia is not directly involved in any claim over the Spratlys although she has territorial sea disputes with Vietnam over the Natuna islands which in China's view are outside her territorial sea limits. However, Indonesia and perhaps Singapore could be drawn into such territorial and maritime conflicts with China as the latter has been ambiguous about the exact boundaries of her maritime borders, such as for example, the extent of her claim over the Exclusive Economic Zone.

Current occupancy rates of the disputed islands show China occupying six reefs, Taiwan one island (Itu Abu or Taiping Dao), the Philippines eight, Malaysia three, Brunei none, Vietnam twenty-two. The number of islands and reefs occupied by the six disputing parties

will remain more or less the same in the foreseeable future. Beijing is the most important player in the game of these territorial claims but there is no evidence to show that Beijing has any intentions to dislodge Vietnam from her occupied islands or reefs in the foreseeable future. In other words, the status quo over the occupation of these islands is likely to be the pattern of interaction among the six disputing parties, especially between Beijing and Hanoi although China had used force on two occasions, i.e. in January 1974 and in March, 1988 to dislodge Vietnam from the Parcel and the Spratly islands.

II Positions of the Contending Claimants

1. Beijing's Position

Beijing's Position can best be summarized as being based on the principles of the intentional law of discovery, occupation and effective control (including administration). Beijing has presented detail historical documents to substantiate her arguments on the principle of discovery. Beijing and in fact Taipei too argue that as early as the second century BC, during the Han dynasty,⁽²⁾ China had already pursued maritime activity in the region. To convince the other claimant states, China maintains that she had already exercised effective control over the Spratly islands during the Ming Dynasty when Zheng He sailed seven times to the South China Sea between 1405-1433.⁽³⁾ Since then, successive Chinese governments exercised control over both the Parcel

and the Spratly island. This was acknowledged by Japan after her surrender in 1945 when she returned all the occupied islands to China. Thus since 12th December 1947, Taiwan has occupied the Itu Abu island in the Spratly chain.

In October, 1949, Mao ousted the KMT and the CCP became the legitimate government of China. Beijing replaced Taipei as the only legitimate claimant state of the Spratly islands. However, Mao's new socialist government took a low-profile posture towards the South China Sea initially because Mao was preoccupied primarily with internal reconstruction as well as trying to minimize the external threats from the US who adopted a very hard-line anti-Maoist communist policy in the early 1950s. For example, immediately before the September 1951 Peace Conference in San Francisco, China's Foreign Minister Zhou En-lai issued a statement on 15th August, 1951 reminding the world that both the Paracel and the Spratly islands belong to China.⁽⁴⁾ Zhou then declared that Beijing was the legal successor since 'Japan renounced all rights, titles and claims to the Spratly and to the Paracel islands' and handed them over to China.⁽⁵⁾

Since the beginning of the early 1960s, however, Beijing began to show concern over the challenges posed by the Saigon government's claims over the Paracel islands despite Beijing's persistent claim that for many years, Chinese fishermen mainly from Hainan and Taiwan, have continuously fished both in the Paracel and the Spratly islands. According to Beijing, such activity was even acknowledged by the

French government as early as the 1930's. Thus the Beijing government argued that China had already established her presence in the South China Sea in the 1940's long before the other claimants.⁽⁷⁾

In 1973, the South Vietnamese government decided to incorporate the Paracel islands to become part of the Phuoc Tuy province. Six months later, Beijing decided to take military action. China was able to dislodge Vietnam from the Paracel islands as a result of the short conflict in January, 1974. In June, 1974, in order to dispel Vietnam's claims, Beijing published a detailed map claiming all the islands in the South China Sea.

2. Taiwan's Position

Taiwan's position is the same as Beijing's as she follows the same arguments, i.e., she bases her territorial claims on the principles of discovery, occupation, effective administration and control of the Spratly islands. Like Beijing, the Taipei authorities presented an equally detailed historical document to substantiate their claims. In order to strengthen their claim. Taipei, since December, 1947, has been occupying the largest island, i.e. Itu Aba (the only island with water) where they built a weather station.⁽⁸⁾

Despite political and ideological differences over the unification, both governments were at times supporting each other's position vis-à-vis the other claimant states, especially Vietnam. In fact, in January, 1974, during the sea battles between Beijing and South Vietnam over the Paracel islands, the then President Chiang Kai-shek of the KMT

government did not attempt to intercept Beijing's battleships passing through the Straits of Taiwan.

An analysis of both Beijing's and Taipei's attitudes revealed both to be staunch nationalist. Thus their common stand was based on the uncompromising irredentist thinking that the Spratly islands belonged to the Chinese people for a long time and therefore they have the inalienable right to claim these islands.

In fact, one can argue that military presence in the Itu Abu islands by the Taipei authorities can help Beijing to assert her claim over the other claimant states, especially Vietnam and indirectly against Japan over the Senkaku islands disputes.

3. Vietnam's Position

Like Beijing and Taipei, Vietnam is also basing her territorial claims over the Spratly and the Paracel islands on historical grounds. For example, Vietnam mentioned that in 1816 King Gia Long of Annam already had set up a state-owned company to produce fertilizer from the Guano collected from these two islands. To strengthen her claim, Vietnam mentioned that the same king also gave instructions to build a stone-tablet and a pagoda on one of the islands of the Paracel archipelago.⁽⁹⁾ Thus Vietnam argued that during the Nguyen dynasty in the mid-19th century, she already had established full authority over the Paracels.

To refute China's claim, Vietnam argued that by virtue of the 1874 Treaty between France and China, the latter relinquished her suzerainty

over Annam and the Paracels. During the French rule in the late 19th century, for example, the French Governor-General Paul Doumer ordered the construction of a light-house and a meteorological station. In 1952, France decided to incorporate the Paracel islands into Thua Thien Province.⁽¹⁰⁾ A year later, France officially annexed the Spratly islands to become part of Ba Ria Province. Hence Vietnam argued that she had exercised her sovereign rights directly or indirectly through France acting on her behalf.⁽¹¹⁾ In other words, Vietnam's legal argument is based on the principle of state succession which in the Vietnamese perspective is recognized by international law. Vietnam claimed that she inherited the legal title from France who completely gave up control over Indochina after the Geneva Conference in 1954. In order to strengthen her claim, the Saigon government issued a statement on 1st June, 1956, claiming both the Paracel and the Spratly islands. Two months later, troops were sent to the Spratly islands. In October, 1956, through Decree No.143/NV⁽¹²⁾ South Vietnam formally incorporated the Spratly islands to become part of Phuoc Tuy province.

Vietnam's historical argument was also based on the reason that the other claimant states remained silent when during the 1951 San Francisco Peace Conference the Vietnamese delegation affirmed their country's ownership over the Paracel and the Spratly islands. Thus Vietnam interpreted this silence mistakenly, on the part of China as consent to her claim. Vietnam further contends that ancient books and documents cited by Beijing and Taipei in no way effectively prove the claims by China, as these documents were distorted and twisted the

‘truths’.⁽¹³⁾ From Vietnam’s perspective, the historical argument presented by Beijing was a red-herring as Beijing’s real intention is to realize her ambition to dominate the whole of Southeast Asia, including the South China Sea. Ultimately, it is Beijing’s desire to realize her strategy of expanding southward by the sea-route.⁽¹⁴⁾ In short, Vietnam regards the Chinese historical documents as fabrication, whereas her historical documents were authentic. Thus Vietnam’s legal claims are based on firstly, the historical records; secondly, effective control; and finally continuous administration and development.⁽¹⁵⁾

4. The Philippines’ Position

Currently, the Philippines occupy eight islands and reefs,⁽¹⁶⁾ and since 1971, has claimed all of the fifty-three islands and reefs of the so-called ‘Kalayaan’ ‘freedom’ island chain.

The Philippines’ claim can best be succinctly summarized as being based on the following: 1) historical grounds; 2) geographical proximity; 3) effective control and administration; and finally 4) economic and security reasons.

The historical claim is based on two points, i.e. state succession from the US. This argument is based on the US-Spanish Treaty of 1898 in which Manila succeeded to the legal rights of the US which gave independence to the Philippines on 4th July, 1946. The second point was based on the discovery of these ‘freedom’ islands by a Filipino named Thomas Coma in 1956 who alleged that those islands then were *terra nullius* (unoccupied).

Furthermore, the Philippines claim that part of the Spratly islands belong to Manila because there is geographical proximity to Palawan island. They claim that the Kalayaan islands are an extension of the continental shelf and fall within the Philippines' claim of a 200 mile Exclusive Economic Zone. Thus the Philippine government used the discovery of an oil field in 1979 on the northwest of the Palawan island to support her geographical proximity argument. This discovery is important as it strengthens their argument that economic and security needs dictate their desire to control these islands. Finally, the Philippine government argues that in order to show that Manila effectively controls the 'Kalayaan' islands chain, the government decided to build an airstrip on Thi Tu island in the Spratlys.

5. Malaysia's Position

Malaysia became independent in September, 1963 and it was only in 1978 that Malaysia decided to occupy Amboyna Cay which is located in the southern part of the Spratly island chain. A year later in 1979, Malaysia formally declared that the following reefs be part of the Malaysian territorial sea, i.e. Amboyna Cay, Investigation Reef, Erica Reef, Swallow Reef, Louisa Reef, Banque Canada Reef, Marieveles Reef and finally the Ardasier Reef. As a consequence of Kuala Lumpur's action, Brunei also declared sovereignty over Swallow Reef because it lay closer to Brunei's continental shelf and Exclusive Economic Zone. Malaysia's claim is also based on 'geographical proximity' as these reefs are within the 200 miles Exclusive Economic

Zone of the Malaysian territorial sea.

In order to strengthen Malaysia's claim over these reefs, the Malaysian government has stationed a naval unit on the Swallow Reefs, deploying about 50 armed personnel. In fact, the government built a small resort hotel on the reef⁽¹⁷⁾ and Mahathir himself has visited it by helicopter.

III The Issue of Sovereignty: Is Discovery a Valid Claim?

According to the customary practice of international law, *terra nullius* (unoccupied) discovered by an individual does not qualify as legal entitlement. Only states entitled to the rights of legal ownership. Thus the Philippines using the historical argument based on the discovery by Thomas Coma in 1956 cannot be legally acceptable by international jurists. At any rate, the notion of discovery as a basis of territorial acquisition has long been obsolete.⁽¹⁸⁾ As one analyst puts it, mere sighting or discovery of a territory and its inclusion in books and maps do not evince the exercise of effective physical possession and occupation. Besides, the possession of certain territories without the sanction of a competent authority does not create a valid title. This argument went further, 'even if there was intention on the part of the state to impose sovereignty, jurisdiction cannot be considered complete without occupation.'⁽²⁰⁾ Thus discovery without occupation is inadequate for claiming the legal title of sovereignty as international law recognizes

occupation as one of the five modes of legal acquisition of territory (i.e. occupation, prescription, accretion, secession and conquest). However occupation per se at most qualifies as 'unchoate title' (just begun title). Hence for any title to be effective and recognized, by other sovereign states, occupation must be over a long period of time, there must be manifestation of an actual continuous and peaceful display of state authority (such as showing a national flag) over the occupied territory.⁽²¹⁾ In this instance, the main difficulty of the legal argument by the contending states is that they do not really believe in it. The truth that might is right and not right is might remains an iron law of international politics. Thus the legal arguments presented by the disputing parties are at most academic. China as the strongest contender will not resolve the sovereignty disputes in the South China Sea through arbitration by the International Court of Justice at the Hague. China being a victim of the western imperialist powers since 1840, still has lingering fear and suspicion of western law.

Furthermore, China does not believe in the settlement of her territorial disputes in the South China Sea through legal means. Why should she since China has the strongest card in her hands? Besides, the South China Sea is too vitally important for her in terms of her economic, strategic, security and political needs.

The point is that the essence of the dispute over sovereignty is not legal but political will and judgement and therefore it has to be resolved within an amicable political rather than a legal framework.

IV Is the Historical Argument a Valid Claim?

If one examines the historical documents as presented by the various contending parties, China (Beijing and Taipei) appear to have a stronger claim than Vietnam, the Philippines and Malaysia. In supporting her claims, both Beijing and Taipei have presented very detailed historical records, claiming that the Chinese had been in the South China Sea engaging in fishing activities for more than 2000 years.⁽²²⁾ The question is, how can these historical records be properly verified? As Bertrand Russell has once said, historians can be liars. In this case, history may not be totally reliable especially where sovereignty is a highly sensitive and emotional issue which can be manipulated and distorted. Furthermore, the weakness of the historical argument is further compounded by the fact, i.e. which historical period should be acceptable to serve as legal ground, the 18th century or 200 B.C.? International law does not provide a clear answer to this point. At any rate, the legal tenure of the Spratly islands was at best still unclear in the 19th century.⁽²³⁾

V Is Geographical Proximity a Valid Argument?

The Philippines, Malaysia and Brunei have based their claims over the Spratly islands on the notion of geographical proximity. Basically, these disputed territories are nearer to these three states' continental

shelf or within the limits of their Exclusive Economic Zones.

However, the difficulty of this geographical proximity argument is that it is not the territorial water which gives the title to the islands but the islands confer rights to water.⁽²⁴⁾ The weakness of the geo-proximity argument was clearly seen from the fact that though the Falkland islands were thousand of miles away from Britain, it is still under the control of the British government despite Argentina's unsuccessful invasion in 1982.

Thus the geo-proximity argument cannot be accepted as legal tenure as in many cases foreign islands lie off the coast of other states, for example, the British Channel Island which is located off the French coast or the Greek islands in the Aegean Sea, off the coast of Turkey.⁽²⁵⁾ The problem did not arise, until the discovery of oil in the 1970's. Before that time, many reefs and small islands never clearly belonged to any state as these islands and reefs then possessed no economic value.⁽²⁶⁾

To sum up the above analysis, the historical, legal and geo-proximity arguments are not fully valid. The pertinent question therefore is, what are the real reasons for the contending parties to scramble for sovereignty over the South China Sea? Is it a conflict of nationalism? In a way, the disputes among the contending parties over the claim of sovereignty in the Spratly islands can be partially explain as the manifestation of conflicts of nationalism and national interests.

VI Nationalism and National Interest

Since China and Vietnam are the two main contenders who are claiming sovereignty over the South China Sea, it is thus pertinent to analyze the divergent perceptions of nationalism of these two disputants.

From the Vietnamese perspective, Vietnamese nationalism can be defined as the historical process by which the Vietnamese came to have such a strong sense of their own identity.⁽²⁷⁾ It is important to look at the complicated dynamics of China-Vietnam relations from the perspective of Vietnam's desire to seek her own identity. Vietnam's intense sense of national pride and historical consciousness was shaped to a large extent during the many years of foreign domination especially by China throughout more than one thousand years of colonial rule.

The Sino-Vietnamese conflicts over the South China Sea in particular and Indochina in general can be understood in a sense by the manifestation of sinophobia and a deep sense of anxiety over China's growing power. This feeling of anxiety is sometimes manifested openly as anti-Chinese sentiments shaped by three unhappy experiences since 1945. Firstly, Beijing's betrayal of the Vietnam who were fighting the French colonialists in the 1954 Geneva Conference; secondly, Beijing's 'collusion' with the US against Vietnam the late 1960's; and finally China's sabotage of Vietnam's attempt to reconstruct their socialist economy from 1976 to 1989.

In this sense, the sovereignty disputes between Vietnam and China over the South China Sea can be interpreted as a conflict of nationalism

between the two states. Thus Vietnam's concern over the Paracel and the Spratly islands can be interpreted as a response to China's growing nationalistic assertiveness. For example, Vietnam interpreted the March 14th 1988, armed conflicts over the Sinh Ton islands in the Spratly chain as 'provocation' by Chinese warships which illegally intruded into the area claimed by Vietnam.⁽²⁸⁾

Vietnamese nationalism was again manifest in February, 1992 when China announced the proclamation of the Sea Law on her territorial waters and contiguous areas on 25th February, 1992. Vietnam and the other claimant states were alarmed when China was claiming the entire South China Sea. Naturally, Vietnam immediately responded and declared China's declaration illegal.

Again, in May, 1992, Vietnam promptly issued a statement, protesting China's grant of a concession to Creston Energy, Co. USA for exploration of oil and gas in the south-western part of the South China Sea. Vietnam responded, maintaining that the agreement between China and the US company has seriously violated Vietnam's sovereign rights over her continental shelf and her Exclusive Economic Zone.⁽²⁹⁾

From China's perspective, Vietnam's response was incompatible with Chinese nationalist aspirations. Thus in replying to Vietnam's assertiveness on 12th May, 1988, China issued a statement warning Vietnam to abandon her aggressive policy towards the Nansha islands which rightfully belonged to China.⁽³⁰⁾

Are the sovereignty disputes in the South China Sea due to strategic considerations? From China's perspective, the Paracel and the Spratly

islands have immense strategic value as these islands straddle the Indian and the Pacific Oceans. Thus from Beijing's perspective, if China can control the entire South China Sea, she will have strategic advantages not only vis-à-vis the other major powers but also vis-à-vis the other claimant states.

One of the major reasons for Chinese hostility to Vietnam during the period from 1978 to 1988 was a result of Vietnam's ties with Moscow. China was apprehensive, for with the help of the Soviet navy, Vietnam could dislodge China from the Parcel islands. Besides this fear China worried that her searoutes may be choked by the Soviet navy in the South China Sea.

China was thus relieved when the Soviet Union collapsed in 1991. She was also pleased to see the decline of the US military presence in Southeast Asia. Hence with the changing strategic environment which tilted in favor of China, there is no need to adopt a hardline strategic policy towards Vietnam anymore. Vietnam or any other claimant state cannot in any way pose serious security and strategic threats to China. Hence China can afford to pursue a less hardline policy towards Vietnam over the sovereignty disputes in the South China Sea.

On the other hand, Vietnam cannot afford to continue her hardline South China Sea policy vis-à-vis her arch adversary China which is a result of the declining financial and military assistance from her Russian patron. With the slow normalization process between the US and Vietnam, Hanoi has indeed too few cards to play vis-à-vis China over the South China Sea. Instead, Vietnam since the late 1980's has adopted

a less rigid hardline South China Sea policy vis-à-vis China.

Vietnam's flexibility can be clearly seen from her desire to become a member of ASEAN which heretofore was attacked by the Vietnamese revolutionaries as being a regional organization propped up by US 'imperialism' to serve Washington's 'expansionism' in Southeast Asia in the 1960's. She is also flexible in trying to resolve the territorial disputes with Malaysia and the Philippines besides being keen to cooperate with the ASEAN states regarding illegal trafficking, marine research and safe navigation, etc.

From the strategic perspective, if China can control the whole of the South China Sea, then her scope and the extent of her strategic interest and influence will be much wider and greater, even to the point of being able to challenge any major power's presence (for example India) in the Indian Ocean. Thus it is inevitable that China is interested in expanding southward taking into account her larger geo-strategic interests in Southeast Asia.

From the other claimant states' point of view, the Spratly islands are also important if not even more so than for China. Taking into consideration their geographical position, the complete control of the Spratly islands can have profound strategic implications for Vietnam which aspires to be an important regional power in the Southeast Asian region. From Vietnam's perspective, the control of the South China Sea can prevent China from spreading her power southwards. The Vietnamese have always argued that the ASEAN states must be grateful to them as they are the frontline state which can prevent the spread of

Chinese 'hegemonism' southwards. Similarly, the Chinese also argue on the same line, i.e. China's interest in the South China Sea can limit the spread of Vietnam's power and influence in Southeast Asia.⁽³¹⁾

From the Philippines', Malaysia's and Brunei's perspective, the South China Sea has also important security implications for ASEAN. If ASEAN wants to achieve her vision of ZOPFAN (Zone of Peace, Freedom and Neutrality) then China or any other outside major or superpower is not allowed to seek hegemony in the region. Thus any dominance on the part of China over the South China Sea will be considered by ASEAN as a security threat not only to the individual ASEAN member states, but also to ASEAN as a whole. Thus total control of the Spratly islands by China will be perceived as a challenge to ASEAN's Treaty of Amity and Cooperation. For this reason, ASEAN has decided to form an ASEAN Regional Forum, with the desire to establish a permanent framework to engage China in a dialogue and prevent hegemonic domination over the Spratly islands.

VII Economic Concern

One of the major reasons leading to the sovereignty claims over the Spratly islands is due to the vast economic resources available in the Spratly chain. The Spratly region has been rated as one of the richest fishing grounds in the world.⁽³²⁾ It is also rich in natural resources such as oil and gas. For example the sea area surrounding Terumbu Layang

Layang is estimated to have about 50,000 tons of tuna and if fully exploited could be worth US \$50 million per year.⁽³³⁾

Fish as a source of protein are vital and important for all the claimant states since fish play an important part in their diet.⁽³⁴⁾ In the case of Vietnam and China and to some extent for the Philippines and Malaysia, fish resources are not only an important foodsource but also a valuable source of foreign currency earnings. Being short of hard currency, coupled with Vietnam's desire to catch up with the other ASEAN free-market economies, the control of the Spratly islands' marine resources are vital for Vietnam if she wants to succeed in her drive to be another economic dragon in Southeast Asia. Furthermore, from Vietnam's perspective, with the fishing grounds being so close to her shores, she tends to catch too much a trend that is usually followed by other littoral states, thus there is a need to extend the fishing grounds beyond the traditional limited catching areas. Hence, the South China Sea has become a natural extension of larger fishing grounds to meet the needs of Vietnam's ever increasing population and economic growth.

From China's point of view, the control of the Spratly islands is very important too as the acquisition of oil and natural gas in the Spratlys help to sustain her ambition in her drive towards industrialization. With the present high growth of China's economy it is estimated that by the beginning of the 21st century, China, like Japan will be an importer of oil rather than an exporter as domestic sources will no longer be sufficient to cater China's growing appetite.

VIII Resolving the Dispute

Can the sovereignty disputes be resolved? The above analysis show that the historical, legal and geo-proximity arguments presented by the disputants are nothing more than cloaks to justify their respective security, strategic, political and economic needs. The fact remains that in international politics in Southeast Asia, political and economic nationalism remain the dominant force governing inter-state relations, although admittedly, there are some trends which gradually are pointing towards some regionalism.

ASEAN, though formed in August, 1967, has not yet emerged as a regional organization to replace the deep-rooted basic economic, political and social interests of the disputing political systems. The decision-makers within the political systems of the disputing parties still subscribe to the notion of absolute and exclusive sovereignty rights over the Paracel and the Spratly islands. Thus it is understandable why the old guards in Beijing (certainly Deng Xiaoping) still strongly and firmly believe the islands belong to the Chinese nation. The other claimant states, for example Vietnam are equally if not more determined to protect their rights and if necessary would be willing to go to war against their challengers or enemies. Despite the asymmetrical power equation between Vietnam and China, Hanoi's top leadership did not succumb to Deng Xiaoping's military onslaught against Vietnam in February, 1979. Their political will and determination remain intact and in fact from time to time, they issue diplomatic notes warning China not

to encroach upon their 'holy' sea in the Spratly islands.

Similarly, the other ASEAN claimant states, such as the Philippines and Malaysia are equally determined to protect their claims over their 'holy land' in the Spratly chain. The Philippines' military chief, General Arturo Enrile said that if fighting broke out between the Philippines and a challenger, Manila would defend herself at any cost.⁽³⁵⁾ In order to meet these challenges, Manila has decided to spend 50 to 70 billion pesos for her military modernization program over a period of five years.

Since China's use of her military forces against Vietnam in the Spratly islands in March, 1988, there has been a trend in Southeast Asia by the disputing parties as well as other smaller states to spend more on their defenses because of China's emergence as a naval power.

This new development in Southeast Asia has perturbed some scholars and policy-makers who have come up with different ideas and proposals with the view to resolve the sovereignty disputes over the Spratly islands. These proposals include a 'Spratly Treaty', 'The Antarctic Treaty Model', a 'South China Sea Condominium', a 'South China Sea Demilitarized Zone', 'Joint Development', an 'ASEAN Regional Forum', to establishing a 'Spratly Authority' etc. Although ideas and proposals abound, the fact remains that the sovereignty disputes in the Spratly islands are unlikely to be resolved in the foreseeable future as the seeds of conflict are too deeply rooted in domestic political systems. What can be seen however is that efforts have been made by the concerned parties to avoid the Spratly islands disputes evolving into a large-scale armed conflict which may engulf

directly or indirectly extra-regional powers. Thus the sovereignty disputes in the Spratly islands are not likely to go beyond the status quo but nevertheless remain unsolvable in the foreseeable future.

Notes

(1) For example, Vietnam had some disputes with Cambodia over Phu Quoc island until Hanoi occupied it since 1976. Vietnam and Indonesia both claim the Natuna islands whereas Singapore and Malaysia are currently involved in the territorial claim over Pedra Blanca (Pulau Batu Puteh). Malaysia is the only country in the ASEAN grouping which has some territorial conflicts with all the ASEAN member states. For example, Malaysia and Indonesia have some disputes over the ownership of Litigan-Sidapan (off the southern coast of Sabah).

(2) See Ji Guoxing, *The Spratly Disputes and Prospects for Settlement*. (Kuala Lumpur: Institute of Strategic and International Studies, Malaysia, 1992), pp. 2-6. See also Peter K.H. Yu, *The Four Archipelagoes in the South China Sea*, (Taipei, Council for Advanced Policy Studies, 1991) pp. 26-32.

(3) Ji Guoxing, *op. cit.* p.3.

(4) Peter Yu, *op. cit.* p.30.

(5) Peter Yu, *ibid.*, p.30. Japan occupied the Spratly islands during the 2nd World War and renamed the islands in April, 1939 as Shinnan Gunto and then surrendered them in 1945.

(6) Ji Guoxing, *op. cit.* p.30.

(7) Ji Guoxing, *ibid.* p.5.

(8) In 1980, the Spratly islands were placed under the jurisdiction of the Gaoxiong Special Municipality. See Peter Yu, *op. cit.* p.27. Beijing however put it under the jurisdiction of the Hainan authorities.

(9) See *BBC/FE* (British Broadcasting Cooperation, Far East) No. 4499, p.A3/1 and No. 4503, p.A3/1 in Lee Lai To, *The People's Republic of China and the South China Sea* (Department of Political Science, University of Singapore, Occasional Paper No.31, 1977), p.8.

(10) 'Thanh Thuy, Hoang Sa and Truong Sa - Vietnamese Territory,' *Vietnam Courier*, No. 2, 1979, pp.10-11.

- (11) Thanh Thuy, *ibid*, p.11.
- (12) Peter Yu, *op. cit.* p.34.
- (13) 'A Reply to Xinhua, Hoang Sa and Truong Sa-Vietnamese Territory,' *Vietnam Courier*, No. 9, 1982, pp.3-4; Huu Tho 'Encroachment Upon Vietnamese Territory: A Continuing Policy of China,' *Vietnam Courier*, No. 4, 1982, p.13 and p.18; Vu Khoi 'Nature of Hoang Sa and Truong Sa Archipelagoes,' *Vietnam Courier*, No. 7, 1980, pp. 8 and 9.
- (14) 'A reply to Xinhua,' *op. cit.* p.4.
- (15) Vietnam for example has maintained a naval base and constructed a 1500 feet paved airstrip in the Spratly islands. Peter Yu, *op. cit.* p.36.
- (16) These islands and reefs are as follows: Flat Island, Nanshan Island. West York Island, Lankiam Cay, Northeast Cay, Thila Island, Coaila Island and the Commodore Reef.
- (17) Peter Yu, *op. cit.* p.39.
- (18) B.A. Hamzah, 'Conflicting Jurisdictional Problems in the Spratlys: Scope for Conflict Resolution,' Bandung, 15-18th July, 1991, p.200.
- (19) B.A. Hamzah, *ibid.* p.200.
- (20) B.A. Hamzah, *ibid.* P.200.
- (21) B.A. Hamzah, 'Jurisdictional Issues and the Conflicting Claims in the Spratlys: What can be done in Enhancing Confidence-Building Measures' (Report of the Workshop on Managing Potential Conflicts in the South China Sea, Bali, 22-24 January, 1990), p.179.
- (22) See Hans J. Buchholz, *Law of the Sea Zones in the Pacific Ocean* (Singapore: Institute of Southeast Asian Studies, 1987), p.43.
- (23) Bais J. Buchholz, *ibid.* p.43.
- (24) Steven Kuan-tsyh Yu, 'Who Owns the Paracels and Spratlys? An Evaluation of the Nature and Legal Basis of the Conflicting Territorial Claims,' Workshop on the Managing of Potential Conflicts in the South China Sea, Bandung, 15-18th July, 1991, p.281.
- (25) Hans Buchholz, *op. cit.* p.45.
- (26) Hans Buchholz, *op. cit.* p.30.
- (27) C.A. Thayer, 'Vietnam's External Relations: An Overview,' *Pacific Community*, vol.9 No.2, January, 1978, P.214.
- (28) Chang Pao-Min, 'A New Scramble for the South China Sea Islands,' *Contemporary Southeast Asia*, Vol.12, No.1 June, 1990, p.26. 'Cooling Off A Flashpoint,' *Asia Week*, July 17, 1992, p.23. Shee Poon Kim, 'The March 1988 Skirmish Over the Spratly Islands and Its Implications for Sino-Vietnamese

Relations,' R.D. Hill, ed., *Fishing in Troubled Waters* (Hong Kong: Center for Asian Studies, University of Hong Kong, 1991), p.177-191.

(29) See 'Statement of the Ministry of Foreign Affairs of the Socialist Republic of Vietnam on the Agreement between Chinese and US Oil Companies for the Exploration of Oil and Gas on the Continental Shelf of Vietnam,' Hanoi, 16.5. 1992.

(30) See 'Memorandum of the Ministry of Foreign Affairs of the PRC on the Question of Xisha and Nansha Islands,' Beijing, 12.5. 1988.

(31) See Lim Joo-Jock, *Geo-Strategy and the South China Sea Basin* (Singapore: Singapore University Press, 1979), p.37.

(32) Mark J. Valencia, 'The South China Sea: Potential Conflict and Cooperation,' The Third Workshop on Managing Potential Conflict in the South China Sea, Yogyakarta, 28 June - 2 July, 1992, p.185.

(33) Mark J. Valencia, *ibid.* p.185.

(34) J.C. Marr, 'Fishery and Resources Management in Southeast Asia' (Resources for the Future Program of International Studies of Fishery Arrangements, Paper No.7, Washington D.C.) p.25. In the case of Vietnam, fermented fish sauce alone is an important source of animal protein. See Lim Joo Jock, *op. cit.* p.55.

(35) *The Straits Times*, (Singapore) 15.7. 1994.